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## Iraq: Time for a new strategy?



Some politicians are calling for U.S. troop withdrawal in Iraq. The Gavel columnists debate the effectiveness of current strategies and propose solutions for the war.

BROADSIDE, PAGE 5

## Do longer sentences deter?



Prison populations in the United States continue to increase. The Gavel looks at whether longer mandatory minimum sentences are an effective deterrent for potential offenders.

OPINION, PAGE 7

## Cleveland offers art and culture

Despite being viewed as a city in decline, Cleveland's cultural institutions are among the world's finest. The Gavel looks at some of what the city has to offer.



LAW, PAGE 3



# THE GAVEL

VOLUME 55, ISSUE 3 DECEMBER 2006

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

## C-M students snub awards ceremony

By Kevin Shannon

STAFF WRITER

On Thursday, Oct. 26, 2006, C-M held its annual awards ceremony for students. There were many awards and monetary gifts given to students who excelled academically in various areas over the past year.

Many students received monetary gifts for achieving the highest grade in a particular subject or for being the best student in a particular area of law.

The ceremony was well run, with many faculty and alumni presenters. However, there was a glaring problem with the awards ceremony. Many, in fact a majority, of students who received these awards did not attend.

Dean Lifter, the event's organizer stated that she was somewhat disappointed with the turnout and thought that this year's event had

See CEREMONY page 3



Photo by Catherine Reichel

Students Scott Kuboff, Dipali Parikh, Kelly Means and Karen Swanson Haan argued to the panel at Moot Court Night on Nov. 8, 2006.

The three-judge panel named Parikh best oralist at the event. The panel included Judge Donald C. Nugent and Judge Kathleen M. O'Malley

from the U.S. District Court for the Northern District of Ohio and Lindsay C. Jenkins, an associate with Jones Day in Cleveland.

## Bar passage rate reflects student and faculty efforts

By Joanna Evans

STAFF WRITER

The 2006 Cleveland-Marshall College of Law graduates passed the July Ohio bar exam by 84 percent, and C-M's over-all passage rate rose from 60 percent in 2005 to 75 percent. C-M's passage rate places the school in fifth place, along with Ohio State University, which also had an 84 percent passage rate, amongst Ohio law schools. The rate increase is largely a result of hours of studying by bar takers.

"I talked to people in the library, and they said that this past bar period, they saw more people studying for the bar in the library than any other time in recent history," said Assistant Dean for Student Affairs Gary Williams.

The efforts of C-M staff and faculty are another reason why graduates performed well on the

bar exam. During the two months leading to the July 2006 bar, C-M professors gave one-hour presentations where they broke down bar questions and gave students the opportunity to ask questions about approaching bar material. These presentations coincided with subjects and material covered in bar review courses offered by Barbri and Supreme Bar Review.

In addition to the presentations, times and locations were made available for students to practice taking the Multistate Professional Test, MPT, because bar takers and those responsible for putting together bar prep courses tend to ignore it, Williams said.

"The MPT is so different that it seems to catch a lot of students off guard. Students are used to taking a test where there is a narrative problem telling what the facts are.

See BAR PASSAGE page 2



## The most popular work abroad spots

The following is a list of the most popular work abroad locations for lawyers who speak English.

1. The Netherlands
2. Germany
3. Great Britain
4. Austria
5. Hong Kong
6. Australia
7. Spain
8. Ireland
9. Luxembourg

Source: The National Jurist, Vol. 16, No. 3

## Center works to improve elections

By Brenda Hruska

STAFF WRITER

Cleveland did not fare well in the national spotlight for its administration of elections in November 2004 and May 2006. The Center for Election Integrity, part of both C-M and Cleveland State University's urban affairs college, hoped to turn that around this year.

Candice Hoke, a C-M law professor and the Center's Director, along with the Cuyahoga County Election Review Panel, issued a 200-page report on how the Board of Elections can improve.

"It's an indefensible chaotic system," Hoke said. One of the Panel's main suggestions was to improve poll worker recruitment training. This is where C-M and CSU students stepped in during the November 2006 election.

"The Center has been going non-stop since last April," Hoke said. A week before the May

primary took place, the Board of Elections had a significant shortage of poll workers. Hoke offered the help of CSU students.

"CSU filled every training place and 100 percent showed up," Hoke said. Students have continued to step in. This fall, 280 students signed up and worked in Cuyahoga County.

"This community stepped up beautifully," said Hoke. "It was a real exciting reflection of the public commitment of this university. CSU is seen as one of the best allies in filling support jobs."

Student poll workers, however, are just a part of the effort to improve the administration of elections in Cuyahoga County.

"For several years, the attitude tended to be 'this will blow over,' and it did until the next election," said Hoke. "We are slowly getting away from complacency."

Major improvements are still needed in technical training and

security, and it is troublesome that the private sector is more fully engaged in understanding the technology behind tabulation equipment than the Board of Elections, Hoke added.

This lack of expertise in the technical side of elections also hurts the election-day staff. "Staff are being asked to implement e-voting systems without being given effective training and support ... and then they're the ones accused of incompetence, mismanagement or even fraud," said Hoke. "It's not a rational way to get a high quality system, and as an educator, I'm particularly offended."

Students enrolled in Hoke's election law course also took part by participating in the elections. From their experience, the students made recommendations for reform, and Hoke is integrating them into the Board of Elections report on the November election.



## Dean pleased with bar passage results, praises students

By Geoffrey Mearns

On October 27, 2006, we received some very good news: our graduates who took the Ohio bar examination for the first time in July 2006 passed at a rate of 84 percent. That percentage is our highest passage rate since the passing score was raised approximately ten years ago.

Indeed, the highest passage rate we attained during that period was 75 percent, which we achieved twice. This year, our graduates exceeded that previous benchmark by nine percentage points!



The  
Dean's  
Column

In relative terms, these results were equally impressive. Our passage rate tied us for fifth – with Ohio State – among the nine Ohio law schools. For the July exam, we have only finished fifth on two previous occasions during the last ten years – and we have never finished higher than fifth.

Our passage rate was even higher than some of the so-called “national” law schools, such as the University of Michigan. And we were only two percentage points behind CWRU.

Simply put, these results are excellent. I am particularly pleased for all of those graduates who worked so hard to pass the bar exam. They deserve most of the credit for our collective success.

But many other people are to be commended.

Assistant Dean Gary Williams made a substantial contribution. Although we are still analyzing the data, it appears that those students who enrolled in his bar preparation course performed better than those students who did not take that class. The class was particularly beneficial for those graduates who were at risk because their cumulative law school GPA was less than 3.0.

The faculty also deserves a lot of credit. Over the last three years, many of your professors have modified their teaching and testing techniques in ways that enhance the learning experience. Among many other things, the faculty have given more quizzes and mid-terms exams, they have used multiple choice and short answer questions, and they have provided more feedback on a regular basis. Although there is no way to know for sure whether these techniques had a positive impact on the bar results, I firmly believe that the faculty's commitment to the success of our graduates on the bar exam contributed to these improved results.

Indeed, I believe that our improvement is the product of a team effort – our students, our faculty, the law school administration and staff, the library staff, our alumni, and the University administration. If we sustain our collective commitment to this issue, I am confident that we will continue to see excellent results.

Indeed, there are reasons to believe that we will see steady improvement in the future. For example, the first students who were admitted under our more stringent admissions standards will not take the bar exam until next summer. Also, we continue to develop and implement new strategies, such as the individualized bar counseling sessions we had this year for all 2Ls. So, there are reasons to be optimistic about the future.

But we must temper this optimism with a note of caution. While we have been focusing more time and resources on this issue, most of the other law schools in Ohio have also done so. Over the last few years, we have been running faster and faster, but the other competitors in the race are picking up the pace, as well.

Moreover, our bar passage problem was several years in the making. Last year, when the results were poor, I urged the students and the faculty not to panic and not to become pessimistic. I also urged everyone to be patient.

Now that the results are much more positive, I urge you not to become complacent. Indeed, we all must recognize that to solve the problem completely requires several years of consistently strong results. To attain those results, we must continue to work hard.

As students, you owe it to yourselves – failing the bar exam will delay the realization of your professional dreams. As faculty and staff, we owe it to you to help you achieve those dreams. Collectively, we owe it to all of the men and women who support this law school and who care about its future.

## BLSA promotes film on crisis in Darfur

By Tiffany Elmore

STAFF WRITER

The National Black Law Students Association held International Day of Service on Nov. 9, to urge local chapters to educate members and the law community about the ongoing conflict in Darfur, Sudan. The BLSA chapter at C-M collaborated with BLSA at Case Western University to promote the viewing of the documentary, “Darfur Diaries: Message from Home”, held at Case. The documentary exposes the internal conflict that has ravaged Darfur for the last three years.

Non-government organizations like Human Rights Watch have focused attention on the conflict since its early stages. According to Human Rights Watch, the Sudanese militia called “Janjaweed” has fought with rebel groups called the Sudanese Liberation Army/Movement, SLA/SLM, and the Justice and Equality Movement, JEM, since 2003.

According to a Nov. 16, 2006, BBC News online article, the rebels, who represent black African tribes, said that the Sudanese government is oppressing black Africans in favor of Arabs.

Many fear this conflict to be tantamount to ethnic cleansing and genocide in Rwanda during the mid-

90's. The BBC article stated that the government is suspected of aiding the Janjaweed in its exploits. The Sudanese government has denied any link to the group and has “promised to disarm” the group.

In May, efforts to elicit peace under the Darfur Peace Agreement were frustrated by rebel leaders who told Human Rights Watch “they rejected the DPA because it failed to sufficiently address key issues including a victim's compensation fund, power-sharing, rebel representation in government and disarmament of the Janjaweed militias.” Further, division among opposing groups resulted in the formation of the National Redemption Front group and continued complication in peacekeeping attempts.

As of Nov. 16, Darfur has agreed to deploy about 7,000 African Union troops rather than concede to the United Nations peacekeeping mission that would have included 17,000 troops and 3,000 police officers to monitor the area according to BBC News. The African Union troops are in place to stabilize the country and prevent civilian attacks. However, it has been difficult to maintain civility with a limited number of troops to cover an area similar to the size of France said BBC News. Recently, AU

troops fell victim to attacks resulting in injury and death during stabilization operations.

At this time, an estimated two million people have been displaced and living in refugee camps in both Darfur and its neighbor, Chad. The Janjaweed is linked to the deaths of 200,000 people and the destruction of hundreds of villages, reported Human Rights Watch. Civilians continue to be attacked and the conflict has spilled into Chad, threatening those who have sought refuge.

According to Human Rights Watch, the United Nations Security Council recommended sanctions for a number of Sudanese officials for committing human rights violations. Additionally, the International Criminal Court has opened an investigation into the Darfur situation, however, at this time no officials have been sanctioned or tried in connection with the Darfur conflict.

Human Rights Watch reports that a UN peacekeeping presence is essential to suppress the conflict.

They, along with organizations like NBLSA, urge local communities to get involved by informing others and compelling political leaders to take aggressive action to enforce peacekeeping efforts.



Photo by Christopher Chan

C-M and Case law students participated in the second annual charity flag football event on Saturday, Nov. 11, 2006. This year, the event was held on Case's campus where students endured rain, mud and all-around miserable conditions to raise money for charity.

The event raised \$600 for Big Brothers Big Sisters of Greater Cleveland. In all, 73 law students including 45 students from Case and 28 from C-M participated on five teams. Case won the championship match between Case and C-M with a final score of 34 to 24.

## Bar passage: students improve from '05

Continued from page 1--

The MPT is not like that. The MPT is what a real lawyer looks at. There are different pieces of evidence to look at, and you are asked to do things that people are not familiar in doing,” Williams said.

Practice MPT's were read by staff and faculty members who also provided students with feedback and a points sheet that allowed students to judge for themselves where they went wrong and what they were missing in their answers.

Last year, C-M also began to offer the Ohio bar exam strategies and tactics course. About two-thirds of last year's graduating class took the course. Those who took the course passed at a higher rate than those who did not take the course.

Jared Hartman, a 2006 C-M alumnus, found the Ohio bar exam strategies and tactics course beneficial.

“I definitely feel that it helped. It let me know the format of the exam and what each type of question might look like,” said Hartman. “It helped me learn principles, like immediate recall as opposed to minor details that you don't necessarily need for the essays.”

The real increase was in those graduates who had less than a 3.0 grade point average, Williams said.

According to Williams, last year, students with GPA's between 3.0 and 2.75 passed at a rate of 66 percent, people with GPA's between 2.5 and 2.75 passed at a rate of about 40 to 50 percent, and people with less than 2.5 passed at a rate of 20 to 30 percent. This year, 75 percent of students who took the bar strategies course with a GPA less than 3.0 passed the bar. Students who did not take the course and who had GPAs less than 3.0 passed the bar at a 55 percent rate.

“Everybody comes to law school for one reason or another but in the end, there is always the bar,” said Williams. “What made the difference here was the amount of effort that the students put into study, and that's something that we cannot control. We can have these bar classes, we can have these review sessions but if the students don't put in the time to study, they're not going to pass.”

With some tips for studying for the bar, Peter Kirner, a 2006 C-M alumnus and attorney at the Law Firm of Kirner and Boldt, advises students not to wait until July to start studying.

“Don't work for the two months that you're studying for the bar; stay on top of the suggested work load from whatever bar prep course you take; practice, practice, practice; and, don't forget to take time out to relax.”



# Israel: the man, the myth, the legend

By Paul Deegan  
STAFF WRITER

Many of you may not know Israel personally, but odds are you have met him at one point or another in the Student Services Office.

He is the polite gentleman behind the counter who takes care of all of our problems. You might also remember his name attached to some emails notifying us about the ‘Lost and Found’ that contained music and movie trivia.

Many wonder where Mr. Payton comes up with his material and want to know more about the ‘man behind the counter.’ Mr. Payton was kind enough to participate in an interview for *The Gavel* so that we may learn more about him.

Israel Payton was born in 1946 and attended East High. Upon graduation, he was sent a letter of induction into the Army. He decided instead to enlist in the Army Security Agency as a Military Intelligence Officer for four years. He saw action in Cambodia and Vietnam.

Upon his return, Israel went to college and earned an Associate’s Degree in Philosophy from Cuyahoga Community College. He went to San Francisco for about a year and returned to finish his Bachelor’s Degree in Philosophy from CSU.



After completing his BA, Israel worked at Tri-C as a professor of english composition for seven years. He also became a paramedic in the mid 80’s for seven years and was an orderly for University Hospital.

Israel has always been in search of the right place for him to belong so that he may make his contribution to the world. He thinks he has found it at C-M.

Although he would not pass up the opportunity to finish his Master’s Degree on earn a Ph.D. in the future, he will only do so if it fits well into his life.

Mr. Payton has worked at C-M for the past seven years and has no plans to change

his career at this point. Israel takes care of all the phone calls, faxes, e-mails, etc. in the Student Services Office. He also proctors examinations and helps students with any problems they may have. Israel’s main goal is to ensure that the law school runs smoothly.

Israel was not always as mild-mannered as he is now. Throughout his college years, Israel was a college student during the morning, worked as a night editor at the Cleveland Press, and wrote his column for that paper in the afternoon.

He lived off of black olives and pita bread while, with the help of caffeine, slept little. If that wasn’t enough, he also did the sound work for the Tri-C Theatre. Israel even played the lead in a play when the actual lead got sick. He was able to be a successful substitute and give a stellar performance.

Israel loves his job. He enjoys helping students with their problems and can sympathize with us when we have issues and breakdowns. He knows stress.

His college schedule did not allow him to sleep and Vietnam took its toll. So, if you have any problems, odds are Israel has been there. It’s hard to imagine, but Israel is 60 years old.

Mr. Payton is a music and movie con-

noisseur. He has a passion for science fiction and loves classics such as “Casablanca” and “2001: A Space Odyssey.”

Israel spends most of his free time writing stories. He hopes to be published in the near future.

Israel is writing two stories, one about a black cowboy, and the second takes the reader on the journey of Lazarus after he was raised from the dead, according to the Bible.

Israel was brought up Catholic and was molded for the priesthood. After going to Vietnam, he lost his faith and followed the Buddhist tradition. He attempted to become a vegetarian to support his beliefs, but couldn’t fight the desire for ribs.

Israel attempts to follow the philosophies of Buddhism and Taoism, though he identifies himself as an atheist.

Israel is not married and doesn’t have much hope for marriage in the future. He thinks that it would be tough to find a female that would put up with his many quirks. He did live with a woman for twelve years but that didn’t work out.

Above all, Israel is modest, humble and caring. He has a genuine interest in C-M’s students and is proud of our accomplishments, especially our recent bar exam results.

## Cleveland arts can offer law students relief from stress

By Ben Wiborg  
STAFF WRITER

When people think of Cleveland, they think of an impoverished rust belt city. They think of ice and snow and the seemingly omnipresent steel gray haze hanging over the lonely skyscrapers. They think of the polluted lake and the burning river.

To many, Cleveland is just a city located between New York and Chicago. Cleveland has always been the bridesmaid and never the bride. However, Cleveland is one of the best locations for arts and culture in the United States.

Cleveland has many world renowned cultural and artistic organizations including, the Cleveland Orchestra, the Cleveland Museum of Art, Playhouse Square, and the Cleveland Playhouse.

Cleveland Orchestra  
In February 2005, the New Yorker declared the Cleveland Orchestra to be “the finest in America.” This level of praise is typical. The Cleveland Orchestra is widely considered to be among the best in the world.

The orchestra is one of the “big five” orchestras, a group including the orchestras from Boston, New York, Philadelphia, and Chicago.

Writer Charles Michener said the Cleveland Orchestra is the only American orchestra “that is distinctive and refined enough to stand alongside the two pre-eminent European Ensembles: the Berlin Philharmonic and the Vienna Philharmonic.”

The Cleveland Orchestra was founded in 1918. The Cleveland Orchestra performs in Severance

Hall located on Case Western Reserve University’s campus on University Circle. The Orchestra performs throughout the world including Vienna, Seattle and Miami.

Tickets can be bought online and range in price from \$30 to \$100.

Cleveland Museum of Art

The Cleveland Museum of Art is considered one of the United States’ most important and prestigious art museums.

The museum is known for its medieval, pre-Columbian and Asian collections. The museum was built in 1913, and its permanent collection includes more than 40,000 pieces. Admission to the museum’s permanent collection is free.

The museum is currently displaying the special exhibition titled “Barcelona & Modernity: Picasso, Gaudi, Miro, Dali.” The exhibit highlights the emergence of Barcelona, Spain, as a world leader in art and culture during the 71-year period from 1868 to 1939.

Tickets to the special exhibit can be bought online and cost around \$12. The museum is currently undergoing a \$258 million renovation. Dates, times, and availability may vary, so call 216-421-7340 in advance.

Playhouse Square

Cleveland’s esteemed theater district is known as Playhouse Square. Playhouse Square is second only to New York’s Lincoln Center in size. Playhouse Square has the second most number of productions in the United States, second only to Broadway.

Playhouse Square, located on Euclid Avenue between East 14th and East 17<sup>th</sup> streets, is just a short walk from C-M. Playhouse Square consists of many renovated theaters, including The Ohio, The Palace, The Allen, The State, The Hannah, and Kennedy’s Cabaret.

Playhouse Square offers a wide variety of entertainment. Shows include Broadway plays, comedy events, dance, opera, musicals, and international artists. Disney’s award winning Lion King will be coming to Playhouse Square in the summer of 2007.

Cleveland Playhouse

Cleveland’s famous theater scene includes the Cleveland Playhouse. The Cleveland Playhouse is America’s first professional theater company. The Playhouse was established in 1915. The Playhouse creates and produces a wide range of theatrical events.

The Cleveland Playhouse complex consists of the Bolton Theater, Drury Theater, Brooks Theater, and the Baxter Stage. Current and upcoming events include, “A Christmas Story,” “Of Mice and Men,” and “Lincolnesque.” Famous artists including Tom Hanks and Ed Asner have been involved with the Cleveland Playhouse.

Cleveland has a great deal to offer to those who wish to seek artistic and cultural entertainment. Cleveland has great music, theater, and art.

Whether your stay in Cleveland is temporary or whether you plan on living in Cleveland for the rest of your life, you would do well to take advantage of all that Cleveland has to offer.

## Few attend ceremony

Continued from page 1--

fewer attendees than in previous years. However, she gave a few reasons for the low attendance.

This year, the award ceremony was moved up from 5:00 to 4:30 p.m. in order to allow evening students to attend without missing classes. Lifter suggested that some students simply might not have been able to get out of work on time.

She also stated that some people who received notices of awards simply thought that the award was for making the dean’s list and were not aware of the special awards that they had received. Finally, Lifter noted that some students are just very modest and do not want public recognition for their accomplishments.

However, two anonymous students gave different reasons. One student stated that he or she simply had better things to do such as studying. He was not aware that people from outside the law school would be there. Another student said that he was burned out from studying and slept through the awards ceremony.

Keith Pryatel, a 1986 graduate of C-M, attended the ceremony to give out an award on behalf of his firm. He explained that when he received an award during law school, his entire family came to the event.

Pryatel explained that as a busy attorney, it is a big deal to set aside three or more hours to travel to and from C-M and to sit through the entire ceremony. In fact, he explained that it probably cost the firm more in lost billings for the time he was at the event then the cost of the award itself. He explained that his opinion was not just based on one award winner, but on the entire C-M student body.

Pryatel indicated that he was appalled at the lack of students who actually attended this year to receive an award. He characterized the student body as having an “attitude of arrogance,” because whether they show up or not, they will receive the money.

Pryatel wrote the school a letter complaining about student attendance at the ceremony. When a C-M administrator returned his letter and asked for suggestions, Pryatel suggested that the school adopt a policy of “no show no dough.” If a student is not courteous enough to show up to the event, then she should not be entitled to the money. Pryatel predicted that if C-M institute this policy, the next year’s attendance would be at 99 percent.

Both anonymous students interviewed for this article stated that if they knew they had to show up in order to receive an award, they would have attended. However, Dean Lifter stated that this policy is unlikely, because the ceremony is really about acknowledging the accomplishments of students and not about the money.

She stated that the school would be making some more efforts next year in order to boost attendance. Lifter explained that the school would try to better communicate with the students and let them know what award they received.

As for Pryatel and his firm, a couple of weeks ago, the partners unanimously decided to pull the gift from C-M and award it at a different Ohio law school.



# Preparation key to success on students’ exams

By Karen Mika

LEGAL WRITING PROFESSOR  
*Any words of wisdom for doing well on finals?*  
The only way to do well on something is to rehearse for it. Consequently, aside from studying material, the best way to prepare for finals is to do mock exams under exam conditions.

Obviously, there is no way to tell how you did unless you have some type of model answer so the best mock exams to use are the ones with sample answers.

In the alternative, the mock exams should be done in a group and should be compared. When comparing what is written down, the content should not be critiqued so much as the format.

Students too often underestimate the value of these dress rehearsals. Pretty much every student knows the same amount of law prior to going into finals.

There are only a finite amount of elements and tests to memorize. Success on exams depends on clear organization, articulation and application of those elements or tests. Additionally, it is nearly impossible to anticipate how one will parcel out time under exam conditions. Quite often, exams involve complex issues that have many subparts.

Without “rehearsing” how long it will take to organize and set out the numerous subparts, it is likely that organization will suffer during an exam. Panic often sets in, and the student winds up writing a stream-of-consciousness diatribe on every aspect of a particular course.

Despite what some students think, law professors are rarely impressed by a piece of writing that is simply a “mass” of information related to a particular topic.

Perhaps everyone knows this on some level, but there are a few things with respect to taking exams that must be repeated:

1. Answer the question(s)! Students have a tendency to dive right into the law without addressing the specific question posed. Students also have a tendency to decide to answer other questions besides those that are posed.
2. Think of the answer as the topic sentence of a paragraph. Most paragraphs require a topic sentence in order to be coherent, and the same is true for exam answers.
3. If you can’t point to the topic sentence of a segment of an exam, chances are the answer is organized poorly.
4. Separate out rules from analysis, and place the rules first. Once again, if you can’t look at an exam answer and be able to circle where the rules are and see that they come before any analysis, then there is probably something wrong with the answer.
5. Do not set out stray statements of facts that are disassociated from a legal rule that should precede it.

For instance, the phrase, “The defendant pushed the plaintiff into oncoming traffic” means nothing legally.

Compare that with, “The ‘harmful touching’ occurred when the defendant pushed the plaintiff into oncoming traffic.”

4. Remember good principles of presentation. Don’t underestimate the value of writing legibly, using headings, avoiding arrows and scratch outs, and refraining from paragraphs that continue on for pages.

If you turn in your exam answer thinking, “I’m glad I don’t have to sort through that,” chances are that the professor will not find your work to be commendable.

Too often students will say, “Well, it may not have been pretty, but it was all in there.” The reality is that “pretty” is very significant.

By Kevin M. Butler

C-M ALUMNUS  
*A Polish immigrant, aged around 45, waits nervously at the defendants’ table in the old criminal courts building on East 21st near Payne.*

*Behind him is a young boy, all of 11 years old, who despite having been dressed in his Sunday best, sits on his hands in the back of the courtroom.*

*To his client’s right at the defense table is John Butler, a noted attorney who has publicly said he prefers to represent “gentlemen criminals” — polite, dapper men who graciously relieve you of your possessions while you sleep and yet nod hello the following morning outside church.*

*By those standards, Butler’s client this day is no gentleman. He stands accused of killing his wife’s paramour after a struggle in broad daylight; murder is the charge.*

*Just moments from now, a jury will enter the courtroom through a series of sturdy doors and deliver their verdict.*

Being a Cleveland attorney certainly presents challenges to the graduating law student.

We are home to two law schools, three if you include Akron, and yet our population shrinks, our residents are demonstrably poorer than in many other large cities, and our manufacturing base has declined so much so that attorneys seem to eat other attorneys to develop an established business clientele. (No wonder we are also one of the fattest cities in America.)

The prospects for a long, steady career in the law may appear grim as Cleveland’s fortunes change and the city struggles to realign itself for competition in a new economic era.

But hardly all is lost for the 3L and 4L already contending with finals, graduation and passing the bar.

Merely consider the work you will do, and for whom.

*A laborer all his life, the immigrant has one huge hand and one meaty forearm — the other arm severed in an industrial accident.*

*You can see just how big he is because he’s dressed in just a short-sleeved cotton T-shirt, apropos of the weather when he was wrestled to the ground in that same shirt by police months earlier. He wears no tie, no jacket — and the back of his seat remains empty of any outerwear.*

*The few souls in the courtroom have forgotten how hot it was the summer prior.*

*It’s dusk on Christmas Eve, 1951, and today frigid gusts are dumping Lake Erie snow on downtown Cleveland with a ferocity that undermines John Butler’s plans for a serene holiday with his family.*

*His young son, the lone spectator in the back of the room, just wants to go home.*

I have been fortunate enough to work in a small firm that represents a vast array of clients, from individuals to businesses, wealthy to poor, headstrong to meek.

One is a Balkan immigrant who began in America with nothing and yet

has emerged as a leader in his ethnic community after a series of shrewd real estate moves.

Another client is one of Cleveland’s leading Ukrainians, a person who succeeds first in honoring his family and eastern European brethren, and only then concerns himself with the operation of his very successful business.

We represent small, minority contractors, a Middle Eastern church, a farm-owning family from Medina County. We know that when our clients close shop for the day, they, like us, go home to children, husbands, wives and lives and dream and pray for grace to shine on them.

*John Butler and his hulking client stand together as the jury finally emerges and takes its place. It is a heady moment.*

*In defense of an act prosecuted as a cold-blooded murder, at trial Butler had promoted the doctrine of self-defense — a risky move, but one that affords the jury a chance to send this man back into his own world, albeit now a dismal one.*

*The verdict is read. Butler blinks. The immigrant bows his head. The young boy cannot comprehend the import of the moment with Christmas just hours away.*

*He sees his father say a few words to a few people, put on his thick winter coat and gloves, pick up his briefcase and hat in one hand and take his client by the arm with the other.*

*Together they spin around and walk slowly toward the back of the courtroom. The deputy does not flinch.*

*Butler stops at his son’s pew, astride his client, and tells the boy to put on his coat, scarf, hat and mittens. It’s a long ride back to Lakewood.*

*The boy cannot help noticing the immigrant’s one thick forearm, but he dares not look at his face.*

You should sleep well when you are a Cleveland attorney because you know the people you help every day are meat-and-potatoes people, in a meat-and-potatoes town.

In law school, you have not yet learned of the unintended consequences of your hard work — the warm feeling that comes with having shepherded clients successfully through difficult times.

You celebrate and mourn with them. You do your best for them because you believe in them and yearn for their welfare. You see them at their gravest moments, at their most foolish, and occasionally at their most joyous.

You set aside all that makes you cynical about the law, about your life, and about Cleveland because you know how much your work means to your clients.

And you get on with the business of being their advocate, in the best way you know how. Every now and then,

the result is beautiful.

*At the exit from the criminal courts building, Butler hauls open the massive doors and sternly considers the blizzard before him.*

*The client gives him a hug, thanks him with only a measured look and descends the courtroom steps, still*

*bare-armed, to the street below. Butler and his son stand motionless, watching.*

*Slowly, the Polish immigrant disappears like a hunched specter into the driving Christmas Eve snow.*

*The young boy takes his father’s hand, looks up and pleads, “He has no coat, Dad. Where is he going without a coat?”*

*The attorney sets his hat on his head, nudges it over his ears and looks down at his son. He squeezes the boy’s hand tight.*

*“He’s going free.”*

Kevin Butler is a 2001 graduate of C-M, an attorney with Joseph B. Jerome and Associates, and the grandson and son of Cleveland attorneys John and Dennis Butler.

THE GAVEL

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# The Political Broadside

## The War in Iraq Debated

### What should the United States do about the current situation in Iraq?



**By Bradley Hull**  
CONSERVATIVE GAVEL COLUMNIST

The U.S. military must accelerate the training of Iraqi security forces and make no immediate changes to current troop levels. “Win” is the appropriate exit strategy, not “stay the course” or “the public is nauseated, so here is when we leave, ready or not.”

Lacking training in military strategy and access to confidential national security wartime information, I defer to General John Abizaid, Commander of U.S. forces in the Middle East, on apposite Iraq strategy. General Abizaid, the top U.S. Iraq commander, testified before the Senate Armed

Services Committee on Nov. 15. At the outset, he noted that he “remains optimistic that we can stabilize Iraq.”

General Abizaid testified that the U.S. military should substantially accelerate the pace of Iraqi security forces training. Abizaid endorsed the substantial expansion of teams of American army trainers to work with Iraqi units. Due to his estimate that sectarian violence from militias and “insurgents” (translation: “terrorists”) could swamp Baghdad within four to six months, General Abizaid emphasized that particular urgency currently attaches to the increased training of Iraqi security forces. This endorsement bears no resemblance to the “stay the course” rhetoric senators on both sides of the aisle attempted to foist on him.

The General testified that “the prudent course ahead is keep the troop levels about where they are.” General Abizaid noted that sending more American troops would discourage and disincentivize Iraqis from taking the lead in their own security. The General also rejected calls for a timeline-based reduction of soldiers. This is largely because an announced, scheduled redeployment of U.S. troops would allow terrorists to wait them out, and then enjoy open season on Iraqi civilians.

General Abizaid noted that the current force of approximately 140,000 troops has made progress in securing Iraq. He testified that, as to sectarian violence, “[it] is certainly not as bad as [it] appeared back in August.” Abizaid predicted that the Iraqis may assume their own security in 12 months if training is increased, primarily because roughly 80 percent of the sectarian violence is contained within a 35-mile radius of Baghdad.

General Abizaid testified that “when [he] comes to Washington, [he] feels despair...[but when he] is in Iraq with [his] commanders, [and] when [he] talks to [his] soldiers and Iraqi leadership, they do not despair.” Abizaid added “those among us who fight bet on the Iraqis, and as long as they are confident, I am confident.”

Unsuccessful U.S. exit from the Vietnam War provides lessons for exit from the Iraq War. Internationally-renowned military expert R.J. Rummel noted that victorious Communists in Vietnam, Cambodia and Laos (all of which were aided by the Communist North Vietnamese in taking power) killed *nearly twice as many people* in the ten years after the war, as the United States, South Vietnamese and North Vietnamese armies and the Viet Cong killed *combined* during the ten year war itself. The U.S. Department of State estimated that the Khmer Rouge killed 20 percent of the entire Cambodian population. Given the 2:1 ratio by which Shi’a Muslims outnumber Sunnis combined with Iranian Army support, an unsecured Iraq could reduce Southeast Asian Communism’s reign of terror to a mere historical footnote.

Once American troops were redeployed, Communist North Vietnamese did not continue the fight on U.S. soil. The same cannot be said for many of the terrorists fighting today in Iraq.

Napoleon Bonaparte once said “victory belongs to the most persevering.” When North Vietnamese Communists outlasted the American public’s resolve, they renamed Saigon “Ho Chi Minh City.” Can those who espouse U.S. troop withdrawal without regard to Iraq security fathom the renaming of Baghdad as “Abu Musab al-Zarqawi City”?

## Liberal rebuttal...

Winning is no longer an option. Even Henry Kissinger, special advisor to President Bush, recently admitted that a clear military victory in Iraq is off the table.

“[T]he public is nauseated” because losing thousands of its soldiers turns its collective stomach. I can think of no better reason to leave Iraq in the short term than to save the lives of countless U.S. soldiers and Iraqi civilians.

General Abizaid is a leader of the highest caliber. He is also hamstrung by duty, as were the various ex-military leaders who, post-retirement, have spoken out against this Administration’s failed policies in Iraq.

Would not a secret, staggered redeployment plan mollify the concerns of those who fear that the insurgency would plan its attacks around published U.S. withdrawal dates?

Your Vietnam analogy holds no water.

Throughout the period of staggered troop withdrawal the United States would facilitate Arab-led negotiations among the Kurds, Shiites, and Sunnis, to forge a self-determinative movement toward stability.

Our presence in Iraq catalyzes sectarian tensions and emboldens those radicals opposed to long-term peace through compromise.

Iraqi war apologists ironically play on America’s fear of future terror attacks to justify the continuation of a lost war that breeds new terrorists everyday.

**By Joseph Dunson**  
LIBERAL GAVEL COLUMNIST

We all know the story. Over three and a half years, almost 3,000 American soldiers killed, tens to hundreds of thousands of Iraqi civilians dead, no weapons of mass destruction found, billions of dollars spent monthly, and no peace or hope for stability on the horizon. The human tragedy in Iraq is unparalleled even by the substantial loss of foreign support caused by the U.S. invasion: crucial support that the U.S. could ill-afford to lose in this precarious age of global terror.

Just last month U.S. Central Command released a chart that depicted Iraq as a country teetering on the edge of chaos. Yet still this Administration prefers to ‘stay the course,’ as if near anarchy were a status quo condition worth maintaining.

The midterm elections proved a referendum on this Administration’s failed policies-with Iraq taking center stage. In the next Congress the fresh Democratic leadership will reinstitute oversight and accountability in Washington and will curtail this Administration’s rampant abuse of its executive power. America has spoken and change is in the air: beginning with the midterms, gaining speed at Rumsfeld’s overdue ouster, and soon ushering in a new strategy in Iraq.

The long awaited Baker Commission report will outline the regional support necessary from Syria and Iran to stabilize Iraq from the outside. Just last week Syria and Iraq ended two decades of political estrangement. Many hope that their recent reengagement will lead to a tighter Syrian border, which will in turn curtail the influx of Sunni foreign militants into Iraq. As I write this column, Iraqi President Jalal Talabani prepares to embark on a trip to Tehran, to discuss Iran’s role in the rebuilding of Iraq.

While Syria and Iran are invaluable assets to border closure, the real question is whether the United States should move toward redeployment out of Iraq in the short term. Unequivocally the answer must be “yes.”

The war is lost in conventional terms of victory and defeat. Iraq teeters on the edge of civil war, evidenced by the imposition of forced curfews to lower the frightening daily death toll from sectarian violence in major cities. Many argue that the U.S. presence in Iraq is a primary cause of the continued violence, and studies have concluded that the occupation itself breeds potential terrorists.

How many more American soldiers must die before we shed our hubris, acknowledge our loss, and finally practice our favorite “support our troops” tagline by bringing them home safely to their families?

Former senator John Edwards rightly advocates for a three-element approach to withdrawal from Iraq. “A plan for success needs to focus on three interlocking objectives: reducing the American presence, building Iraq’s capacity and getting other countries to meet their responsibilities to help.”

To get out of Iraq we need to (1) shift from an occupational military force to a training-supplementary force (2) pull our war-profiteering Halliburton contractors (3) open and facilitate regional dialogue in order to cut the influx of foreign fighters and create a multi-national coalition for change.

Withdrawal critics argue that pulling U.S. forces will throw Iraq into a hopeless state of anarchy. Former national security official Richard Clarke answered these critics best when he opined “[d]elaying a possible spike in chaos. . . does not outweigh the benefits of withdrawing sooner. Staying there beyond 2007 would come with high costs in American lives, and in Iraqi lives taken by U.S. forces. It would not be worth the further damage to America’s diminished standing in the world that accompanies our occupation, nor the price we pay by generating more terrorists motivated by our presence in Iraq.”

## Conservative rebuttal...

Facts matter, part three.

We do not all know the story. Few have served in the Iraq War and fewer have access to confidential military information. In CNN’s Election Day exit poll, “corruption” was the issue voters cared most about. Iraq ranked #4.

You espouse redeployment first, Iraq stability second. You forget that the 9/11 terror attack killed more Americans than the Iraq War has after almost four years, and leaving Iraq “in chaos” greatly facilitates terrorist operation. You omit the fact that the killing in Southeast Asia *doubled* after we left Vietnam unsuccessfully. My respected adversary, “who needs security or human rights?” and “let’s replace ‘near’ anarchy with *total* anarchy” are not compassionate messages.

General Abizaid has spent his entire career in military service, is intimately involved with the situation on the ground, and both his life and professional reputation are at stake in this war. His views on Iraq strategy trump military-experience-lacking, 2008 Presidential hopeful Edwards’.

In September’s edition, you cited no facts. In October’s, the world’s most highly respected economists refuted the no-name surveys you cited. Here, you ignore all current military leaders’ strategies for Iraq, and resort to several unsupported conspiracy theories. Better luck next semester.

# SBA tackles exam policy, scheduling

By Scott Kuboff

SBA PRESIDENT

Dear Fellow Students,  
On behalf of my fellow SBA Officers – Meredith Danch, Chan Carlson, Nick Hanna, and Jaime Umerley – I would like to thank you for making this semester a success.

You’ve attended student organizations’ events, participated in fundraisers, and spoke with your Senators to ensure your needs were being met.

To this end, student organizations continue to thrive, and your Student Bar Association was able to pass three major pieces of legislation.

As many of you are aware, your SBA passed Resolution 10222006-A, which

calls for a 24-hour Exam Policy. This policy addresses students who have a night exam scheduled

for 6:00 p.m. and then one the following morning at 9:00 p.m., as well as students who have two exams scheduled on consecutive days.

On Thursday Nov. 30, 2006, the C-M faculty will be voting on whether to accept this policy. I would like to thank SBA Treasurer Nick Hanna for his hard work on this piece of legislation.

Additionally, many part-time evening students informed us that they were precluded from enrolling in evening sections of Required Core Courses because those sections were closed before they could register. In turn, those students had to petition the administration in order to be enrolled in those required courses. In response, senator Crystal Blevins drafted Resolution 11192006-A, which calls for a fair registration process for part-time evening students. I would like to thank senator Blevins for her dedication in serving the students in this matter.

Looking forward to next semester, your SBA plans to address student concerns regarding eligibility for the Dean’s List. Under current academic policy, students receiving an “incomplete” grade are ineligible to be recognized.

While this policy is reasonable in most circumstances, it presents an issue for students who are enrolled in certain courses that require work to be done in the following semester. In this situation, the student would receive an “incomplete” until the work is complete (generally, at the end of the following semester.)

Under such circumstances, those students would be ineligible to be on Dean’s List for the first semester, regardless of their grade or academic performance.

To address this concern, the Academic Credit Task Force has been created. I would like to thank senators John Rose and Jeff Stupp for co-chairing this task force.

Finally, I would like to wish everyone good luck on your final exams and a happy and safe holiday season.

To the graduating students, congratulations on your achievement and good luck on the Bar; it has been a privilege to serve you.

SBA  
President

# Voters focus on scandal, ignore issues

Public disregards political positives and bases decisions on sensationalism

Mike Foley, Bob Ney, Bob Taft. Everyone knows these names. But, how many people can just as easily name some of the positives associated with the Republican Party? Not many.

This past November, voters, especially Ohio voters, manifested their disapproval of the Republican handling of Congress. This is not the first time that a party has lost its majority in Congress, and it certainly will not be the last.

History, because it has proven to be cyclical, helps us predict the future. If we have learned anything about politics and its history, it is that the Democrats will, too, eventually fall.

No party has been able to sustain a permanent majority in Congress – there is always turnaround (it is just a question of when it will occur.)

History has also taught us another timeless lesson – this fall will have everything to do with scandal and other mishappenings, and nothing to do with a lack of progress.

People know Foley, Ney, and Taft because they are associated with scandal and other generally political “bad” things. These scandals were highly broadcasted in the media (but we cannot just blame them).

Who among us can say they have not discussed, in our general conversations, these scandal-laden politicians much more than we have talked about anything “good” that Congress does.

Ever talk about all the potential terrorist plots that have been thwarted, or the new

federal loan available to graduate students? If you did, did you specifically mention that this is a “good” that our government has provided? I am a sinner as well, and I also often glaze over these facts in favor of discussing the juicier stuff, like coingate.

In writing this editorial, I perused several major media outlets in search of examples of the “good” that our government has done. I found some in the back of the “Metro” section, but even these articles could only be classified as “questionably” positive.

Whether we like it or not, the media is the most service-oriented “branch” of our government. They give us what we want – and we want to talk about the “bad” much more than we care about the “good” that our government does.

A meal at a fast food restaurant will give us twice our daily allowance of saturated fats. However, if people did not eat this stuff, it would not be sold. The market will always adjust to our tastes, and whether we wish to admit it or not, our tastes can bit salacious.

When the people went to vote, they went to punish the Republican Party. Likely, the voters were not voting this way because

they were upset that the Republican Party had failed to achieve progress. Instead, their votes were likely direct reactions to the publicized scandal.

Simply put, people vote on what they know, and they know about scandal much more than they know about anything good that our government accomplishes.

So, if I have any advice for the Democratic majority in Congress, it is to do as little as possible – both good and bad. They will not be penalized for doing little “good,” but they will be for doing even the



slightest “bad.” This plan will help the Democrats postpone, as long as possible, effectuation of the one immutable truth in politics - power is never permanent.

# 1L offers interesting approach to finals

The following is the third part in a six-part series following a first-year C-M student from orientation to spring exams.

So you’re a little stressed. It must be that time of year, where sleigh bells are ringing, people are cheery, and oh sweet sin you’ve got four or five finals in front of you.

It’s like you can almost see paradise (also known as vacation), but there is an incredible amount of work to be done. Now if you’re like me, you really haven’t done your outlines, so plan on spending three or four days doing that junk.

Then there is the last minute cramming (I mean “learning”) for the first time in my case. This approach is hated by the scholastic and many at our fair institution who actually do the work as it is assigned. But, it can work if you dig in now and work like the devil.

Unfortunately all this stress is starting to affect my sleep time. I’m not gonna lie, I wake up in cold sweats thinking that

I’ve forgotten the elements of adverse possession-I don’t even know them; how on earth could I forget them. But hey, those are my dreams for ya.

Long story short, take some time to relax (five seconds give or take) and then focus. Do your best to not freak out because then you will be worthless to yourself and to those around you.

Also, it might not be a bad time to re-acquaint yourself with your favorite higher power - God, Buddha, the Pope, Jerry Springer - whatever floats your boat.

Seriously though, a little distraction at this point in the game isn’t a bad thing, just don’t let it become the main show, or you’ll feel like Big Ben after a football game - beat up and worthless.

Yes, I hate the Steelers and grin with glee at every hit Big Ben takes, and congrats to any team that beats them, which this season has been the majority.

Speaking of football, my misguided OSU fans, there is this little program out on the West Coast, a.k.a. the best coast, called USC that with any luck will stop this O-H-I-O

“Finally, make good friends with your outlines, know them like the back of your hand, and you should not only be able to spit them out verbatim, but you must also be able to “interweave” them into something mystical and inspiring.”

garbage for a blessed seven or maybe eight seconds, here’s to hoping.

And no it’s not that I hate OSU, but the fans can turn any sane individual sour to their constant superiority tirades.

Anyways, get some sleep, that whole eight hours of sleep thing - do it. Those bags under your eyes do not inspire anyone or make you look any better.

In fact, people will probably start to wonder what you’ve been sniffing if you don’t get that eight hours of sleep, so definitely do yourself a favor and get some.

Finally, make good friends with your outlines, know them like the back of your hand, and

you should not only be able to spit them out verbatim, but you must also be able to “interweave” them into something mystical and inspiring.

Hopefully, your professor, while on his or her vacation, will exclaim with glee what a brilliant future attorney you will be.

Yes, the future. These grades right here will determine a lot for some people.

Best of luck, and that I do mean with all sincerity, and have a great vacation filled with family who have no clue as to the hell you’ve just been through and will want to share stories of their personal legal debacles (of which you will not be the least bit interested in but will feign interest anyways).

Say hi to your friends who might not remember you because of your four month absence (which can easily be explained away with...oh yeah I’m in law school,), and say hi to Santa for me.

Travel safe, and I look forward to next year.

1L  
First year  
life  
Part III



# Change in South America

By Drew Behnke

STAFF WRITER

A spectre is haunting Latin America—the spectre of democratic socialism. A plethora of democratically elected, decidedly left-leaning governments now comprise a part of the western hemisphere once dominated by authoritarian, and often implanted, dictatorships.

These are not, however, your grandfather’s communists. The collapse of the Soviet Union all but ended Marx’s dream of the imperial communist bloc. Instead, we now see grassroot, populist democracies, inspired by decades of destitution and corruption, calling for socially-minded governments. It need not be said that this is not the democracy the United States envisions when touting the flagship of its foreign policy.

For the most part, leaders of these countries have pledged to continue traditional relations with the United States with respect to trade, narco-trafficking and human rights concerns.

In some cases, cooperation is actually increasing. The Dominican Republic and Guatemala, for instance, have both passed free-trade agreements with the United States. In January 2006, Chile elected self-described socialist Michelle Bachelet as Latin America’s first elected woman head of state, and United States relations with Chile remain strong.

Other countries, however, have made various domestic changes at odds with U.S. interests. Bolivia, under the leadership of Evo Morales of the Movement Toward Socialism party, has begun to decriminalize coca cultivation and to nationalize its considerable natural gas industry. Earlier this year, Ecuador’s Alfredo Palacio expelled U.S. oil company Occidental following an alleged breach of contract. Venezuela’s Hugo Chávez continually irks U.S. officials with his brazenly anti-U.S. rhetoric and by chumming up with Cuba and Iran.

Earlier this month, Nicaragua’s citizens returned to office Daniel Ortega, former president and leader of the Sandinista movement of the 80s and 90s. Ortega’s return is particularly interesting given the United States’ extensive efforts under the Reagan administration to remove him.

Were all this happening 20 years ago, we’d likely witness an adamant not-in-my-back-yard response from the United States. Notwithstanding the discovery of an Al Queda operative within the ranks of one of these governments, thus throwing them into the axis-of-evil pajama party, we will probably see Latin America’s fledgling democracies try their hats at the western hemisphere’s first significant movement toward democratic socialism.

Secretary of State Condoleezza Rice has said the goal of U.S. foreign policy is to “work with our many partners around the world to build and sustain democratic, well-governed states that will respond to the needs of their people.” The rise of these governments in Latin America is, ostensibly, a response to the needs of their respective citizens.

# Just spit it out: confusion in legal language

By Kurt Fawver

GAVEL COLUMNIST

Laws are supposedly created, refined, and interpreted for the benefit of society at large. From the most mentally-disabled individual to the most talented genius, laws are meant to govern all individuals’ behavior.

Any proverbial “common man” should be able to easily understand the limits law sets regarding what he should and should not do. However, a serious problem arises when the “common man” only has an eighth grade reading level, as is the case in the United States.

Every day, men and women of average reading comprehension are entering into lengthy, meticulously constructed, and often purposefully obfuscated contracts. In these instances, the common man is held hostage by legal language, by the jungle of words that are supposed to be shielding him from injustice.

One complex vocabulary word thrown into the proper clause can exonerate a business from all responsibility and utterly destroy an individual’s chance for true equity in financial transactions.

Should a lawyer really need to be present every time a person opens the mail and receives a notification that a clause in his credit card agreement has been updated? What about when someone buys a new widescreen LCD television and enters a retailer service contract? Should all people carry a lawyer in their back pocket, so they cannot fall victim to legal sleight of hand?

The case is even more serious in situations where criminal law is involved. An overly obtuse statute can cause confusion among

even the most brilliant legal scholars.

This being the case, how can the average American know the limits the law places on his or her behavior? Even more, how can police officers, often with an average reading level as well, know when to enforce a confusing statute?

Many individuals may break the law unknowingly or, even worse, be arrested by officers who simply do not understand the caveats of a particular law.

The problem is that legal writing of all forms is filled with archaic terms and unnecessarily confusing grammar and syntax.

Even graduate students need the help of magic decoder rings to decipher many statutes and court opinions. The ideas contained in legal

texts are often difficult to comprehend in the first place, and they are made even worse by being enmeshed in a web of stylistic pomp and over-formalized fluff.

Practically all court opinions read like academic treatises, which most Americans with eighth grade reading levels cannot hope to understand.

Ideally, the language in legal writing should be clear and simple. The efficient use of small, universally understood words should be encouraged.

An average American citizen does not know the definition of words such as “recalcitrance” or “meritorious,” two words immediately found upon a five-second inspection of the Supreme Court’s opinions in Bush v. Gore.

These two words, as just one example,

Respectfully  
dissenting

# Effectiveness of mandatory sentencing

By Chris Tibaldi

STAFF WRITER

In the 1950s president Eisenhower warned America about the “military industrial complex” that was developing because of fear of the Cold War.

Today, criminologists warn us of the exorbitant costs of the “prison industrial complex.” In California, between 1984 and 1994 the state built eight maximum-security prisons while the cost to taxpayers for the system of criminal justice for the same period grew from \$45.6 billion to about \$100 billion in 1994, according to Davis C. Anderson, author of “The Mystery of the Crime Rate.”

According to the U.S. Department of Justice, the prison population in 2004 reached 1.5 million. This is a record number of people incarcerated in American history.

By 2004, the number of prisoners serving life sentences, about 1 in 11, increased by 83 percent over the prior ten years, according to the Boston Globe.

So why such large increases in the prison population? According to J.M. Darley, author of, “Symposium: on the Unlikely Prospect of Reducing Crime Rates by increasing the Severity of Prison Sentences,” the length of the average prison sentence in America has tripled since

WWII, and there are expanded definitions of crimes, notably the “war on drugs,” which is a large part of the increase of convicts incarcerated today.

Many social scientists are trying to determine whether mandatory or lengthy sentences deter crime. One study conducted by Dr. Anthony Doob, professor of criminology at the University of Toronto, compared the crime reduction rate of a state that had increased sentences with an adjacent state that did not.

“There are no general...crime reduction rates achieved in sentence severity,” stated Dr. Doob’s study. Another study led by Doob and C.M. Webster found that citizens are not as concerned with deterrence as they are with an appropriate punishment based on the moral weight of the offense and whether they are repeat offenders.

According to Anderson, however, there are psychological factors that make some people less likely to think about consequences. In his book “The Deterrence Hypothetical,” he lists four reasons why longer sentences do not deter a criminal: 1) the criminal tends to be a more impulsive person than the general public; 2) 76 percent of people caught for a crime never perceived a risk of apprehension; 3) a high percentage of crimes are commit-

ted while the perpetrator is high on alcohol or drugs, increasing impulsiveness; 4) environment or peer group.

Some argue that longer or harsher sentences have been successful. C-M Dean Geoffrey Mearns agrees that some “get tough on crime” laws have been successful, at least with specific deterrence because the offenders are not in a position to commit another crime since they are incarcerated.

According to Bill Jones, one of the authors of the “three strikes” law in California, there has been a 41 percent drop in crime since the 1994 law has been in place. He claims the law was aimed at the 6 percent of criminals that commit 60-70 percent of the crimes in California. The reason it has worked is because, “prisoners know they have 3 choices when released: clean up their act, go to jail or leave the state,” according to Jones.

Jones also argues that the law was written in a way to ensure reasonable and just interpretation. Both the judge and the district attorney have great discretion to provide for lesser sentences in each individual situation.

He also defends the results when some felons end up serving life sentences for what may appear to be petty crimes. He explains that stealing \$153 of

videotapes resulting in a 50 year sentence is fitting because the criminal has at least two other serious felonies.

In 2003, the U.S. Supreme Court upheld California’s law in a 5-4 decision, giving great deference to state law makers. In *Lockyer v. Andrade*, the court held that the “three strikes” law does not constitute a “cruel and unusual” punishment prohibited under the Eighth Amendment.

To deter crime many argue for longer sentences like the three strikes law. If a repeat offender cannot be rehabilitated then the only answer is to “lock em’ up” and keep them off the streets for good. But groups such as the American Civil Liberties Union argue that the “teeth” of the eighth amendment is eroding with these kinds of laws.

“General deterrence is about deterring others...[and] I think the data is much more mixed on whether those severe sanctions have deterred others,” Mearns said. To really deter crime we must have smarter sentencing, not just longer sentencing. People commit crimes because they believe crime pays or they don’t know a better way. In order to stop crime from paying, good government must be defined not only by its use of prisons, but by its ability to provide education, training, and opportunities.





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